

**AN ORDINANCE**

**BY THE PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE**

**02-0-1020**

**AUTHORIZING SETTLEMENT OF ALL CLAIMS OF SHERRY HOBBS, INDIVIDUALLY AND AS ADMINISTRATRIX OF THE ESTATE OF DARRYL HOBBS, IN THE CASE OF HOBBS V. DUPREE, CIVIL ACTION FILE NO. 98VS0150936C, IN THE STATE COURT OF FULTON COUNTY, STATE OF GEORGIA, TO CAUSE PAYMENT TO BE MADE IN THE AMOUNT OF FORTY-FIVE THOUSAND DOLLARS (\$45,000.00); AND FOR OTHER PURPOSES.**

WHEREAS, on June 9, 1998, Sherry Hobbs initiated the case of Sherry Hobbs, Individually and as Administratrix of the Estate of Darryl Hobbs v. Christopher B. Dupree, J.W. Bell, Jacob Leal, Ronnie L. Puckett, Pamela A. Ray, and Fulton-DeKalb County Hospital Authority d/b/a Grady Emergency Medical Service, alleging under the common law of the State of Georgia that Defendants are liable for the wrongful death of Mr. Hobbs; and

WHEREAS, the lawsuit stems from the alleged events surrounding the traffic stop of Mr. Hobbs, on June 23, 1996, at 783 Martin Luther King, Jr. Drive, wherein a Fulton County Sheriff's reserve deputy who witnessed Mr. Hobbs drive in a hazardous and erratic fashion, stopped Mr. Hobbs; and

WHEREAS, Defendant C.B. Dupree, a police officer with the Atlanta Police Department, who was on-duty and patrolling the area, observed the reserve deputy and Mr. Hobbs, and stopped to assist; and

WHEREAS, Officer Dupree and the reserve deputy requested that Mr. Hobbs exit his vehicle and comply with other instructions, and Mr. Hobbs did not immediately comply but continued to act erratically; and

WHEREAS, Officer Dupree and the reserve deputy physically removed Mr. Hobbs from his vehicle, and walked Mr. Hobbs to the reserve deputy's patrol car; and

WHEREAS, Mr. Hobbs physically resisted being placed in the patrol car, and struggled with Officer Dupree and the reserve deputy, breaking free from their control, and physically overpowering Officer Dupree; and

WHEREAS, Officer Dupree broke free from Mr. Hobbs, and, in an attempt to control Mr. Hobbs and to prevent further injury to Mr. Hobbs, law enforcement officers, and citizens, Officer Dupree used *Oleoresin capsicum* spray or "pepper spray" on Mr. Hobbs, and Mr. Hobbs was affected by the *Oleoresin capsicum* spray in a limited manner, and Officer Dupree's vision and respiration were affected by the *Oleoresin capsicum* spray; and

WHEREAS, additional law enforcement officers arrived on the scene; and

WHEREAS, Mr. Hobbs struggled with the law enforcement officers but was handcuffed and placed under control; and

WHEREAS, in accordance with Atlanta Police Department standard operating procedure, Officer Dupree contacted Atlanta Police Dispatch via radio immediately and requested an ambulance, although there was no medical emergency, and Mr. Hobbs was immediately rinsed with water to wash any residual *Oleoresin capsicum* spray from him and to relieve any effect of the *Oleoresin capsicum* spray; and

WHEREAS, in accordance with Atlanta Police Department standard operating procedure, a supervisor, Sgt. J.W. Bell, was summoned to the scene; and

WHEREAS, a Grady Emergency Medical Service ambulance arrived at the scene, and Mr. Hobbs was remanded to the care of the paramedics and emergency medical technicians, and placed in the ambulance; and

WHEREAS, Officer Dupree was advised by one of the emergency medical personnel that Mr. Hobbs was in cardiac arrest, and Officer Dupree removed the handcuffs from Mr. Hobbs; and

WHEREAS, Mr. Hobbs was transported by ambulance to Grady Memorial Hospital, where he died shortly thereafter; and

WHEREAS, in accordance with Atlanta Police Department standard operating procedure, Sgt. J.W. Bell notified the Atlanta Police Department Zone Commander, the Identification Unit, and the Office of Professional Standards, and conducted an investigation in which he determined that Officer Dupree's conduct was proper; and

WHEREAS, in accordance with Atlanta Police Department standard operating procedure, the Atlanta Police Department Office of Professional Standards conducted an investigation in which it determined that Officer Dupree's conduct was proper; and

WHEREAS, the Homicide Unit of the Atlanta Police Department conducted and investigation in which it determined that Mr. Hobbs' death was accidental; and

WHEREAS, the Fulton County Medical Examiner conducted an autopsy of Mr. Hobbs and determined that Mr. Hobbs' death was accidental and the cause of death was acute intoxication by a combination of cocaine and heroin; and

WHEREAS, Officer Dupree denies that he used any force in excess of that which was reasonable and necessary to effectuate control and custody of Mr. Hobbs; and

WHEREAS, Sherry Hobbs, Individually and as Administratrix of Mr. Hobbs' estate, alleges wrongful death on the part of Defendants Bell and Dupree, claiming that Officer Dupree's use of *Oleoresin capsicum* spray, Sgt. Bell's failure to supervise Officer Dupree, both officers' failure to follow departmental procedures and policies, and their failure to exercise

reasonable care in the use of force on and in the care of Mr. Hobbs, resulted in Mr. Hobbs' death; and

WHEREAS, Sherry Hobbs, Individually and as Administratrix of Mr. Hobbs' estate, alleges wrongful death on the part of Defendants Leal, Puckett, Ray, and Fulton-DeKalb County Hospital Authority d/b/a Grady Emergency Medical Service, claiming that their failure to follow required medical procedures and policies and their failure to exercise reasonable care in the care of Mr. Hobbs, resulted in Mr. Hobbs' death; and

WHEREAS, the State Court of Fulton County, State of Georgia, denied Defendants' Motion for Summary Judgment with respect to Defendants' claims that Plaintiff was not a proper party to this action, finding that there were genuine issues of material fact; and

WHEREAS, all parties agreed to attempt to mediate a resolution to this case before incurring additional expenses related to expert witness depositions; and

WHEREAS, after participating in a lengthy mediation session in an effort to reach a compromise in this matter, counsel for Defendants Bell and Dupree and Plaintiff agreed to settle all claims against Defendants Bell and Dupree in this matter for \$45,000.00, including attorneys' fees, contingent upon the approval of the Atlanta City Council and the Mayor; and

WHEREAS, by this settlement, Defendants Bell and Dupree admit no liability; and

WHEREAS, the City Attorney has done an extensive review of the facts and law and has determined that the City's potential financial exposure is far in excess of the settlement amount; and

WHEREAS, the offer of settlement acceptable to Plaintiff is, in the opinion of the Interim City Attorney, in the City's best interest and appropriate to settle all claims against Defendants Bell and Dupree arising out of the case of Hobbs v. Dupree.

NOW, THEREFORE, IT IS ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

SECTION 1. Section 2-783(h)(1) of the Atlanta City Code is waived for the sole purpose of reaching a monetary settlement in the civil action captioned Hobbs v. Dupree.

SECTION 2. The Interim City Attorney is hereby authorized to conclude settlement of all claims against Officer C.B. Dupree and Sgt. J.W. Bell arising out of the lawsuit filed by Sherry Hobbs, Individually and as Administratrix of the Estate of Darryl Hobbs, in the Superior Court of Fulton County, State of Georgia, Civil Action File No. 98VS0150936C.

SECTION 3. The Chief Financial Officer is authorized to pay the total sum of FORTY-FIVE THOUSAND DOLLARS (\$45,000.00) at the direction of the Interim City Attorney from the Fund, Account, and Center No. 1A101-529017-T31001. Such payment will be in full consideration of the dismissal of all claims against Defendants Bell and Dupree.